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UNITED STATES COURT of APPEALS for the NINTH CIRCUIT
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**Amendments to the Ninth Circuit Local Rules
for the Ninth Circuit Court of Appeals**
effective, [January 1, 2007](#)

Changes are highlighted.

RULE	TITLE	New or Revised	PURPOSE OF AMENDMENT
Circuit Rule 21-5 <hr/> Advisory Committee Note to Rule 21-5	Petition for Writ of Mandamus Pursuant to 18 U.S.C. § 3771(d)(3)	New	To facilitate treatment of petitions filed pursuant to the cited statute.
Circuit Rule 36-3	Citation of Unpublished Dispositions or Orders	Revised	To effectuate the local option set forth in Fed. R. App. P. 32.1 regarding citation of pre-January 1, 2007 unpublished dispositions and orders. Requirement to append material abrogated as duplicative of provisions of Rule 32.1.
Advisory Committee Note to Rule 32-2	Motions to Exceed the Page or Type-volume Limitation	Revised	The existing note assures the moving party that if the court denies or only grants in part a request for leave to file an over length brief, the responsive order will provide movant an opportunity to file a brief of the length the court considers appropriate. The additional language memorializes the court's practice of also amending the deadlines for any responsive briefs.

CIRCUIT RULE 21-5

PETITION FOR WRIT OF MANDAMUS PURSUANT TO 18 U.S.C. § 3771(d)(3)

A petition for writ of mandamus filed pursuant to 18 U.S.C. § 3771(d)(3) shall bear the caption “PETITION FOR WRIT OF MANDAMUS PURSUANT TO 18 U.S.C. § 3771(d)(3).” Before filing such a petition, the petitioner’s counsel, or the petitioner if appearing pro se, must notify the motions unit of the Court of Appeals that such a petition will be filed, and must make arrangements for the filing and immediate service of the petition on the relevant parties. Such notification must be by telephone (415/556-9890 or 9800). The real party in interest must telephonically notify the court when it becomes aware of the filing of the petition. (rev. 1-1-07)

CIRCUIT ADVISORY COMMITTEE NOTE TO RULES 21-5

A failure to notify this court ahead of time that such a filing is being made will adversely affect this court’s ability to decide any such petition with 72 hours of filing as contemplated by the statute.

Cross Reference: Ninth Circuit Rule 27-3.

CIRCUIT RULE 36-3

CITATION OF UNPUBLISHED DISPOSITIONS OR ORDERS

- (a) **Not Precedent:** Unpublished dispositions and orders of this Court are not precedent, except when relevant under the doctrine of law of the case **or rules of claim preclusion or issue preclusion.** (rev. 1-1-07)
 - (b) **Citation of Unpublished Dispositions and Orders Issued on or after January 1, 2007:** Unpublished dispositions and orders of this court issued on or after January 1, 2007 may be cited to the courts of this circuit in accordance with Fed. R. App. P. 32.1. (new 1-1-07)
 - (c) **Citation of Unpublished Dispositions and Orders Issued before January 1, 2007:** Unpublished dispositions and orders of this Court **issued before January 1, 2007** may not be cited to the courts of this circuit, except in the following circumstances.
 - (i) They may be cited to this Court or to or by any other court in this circuit when relevant under the doctrine of law of the case **or rules of claim preclusion or issue preclusion.** (rev-1-1-07)
 - (ii) They may be cited to this Court or by any other court in this circuit for factual purposes, such as to show double jeopardy, sanctionable conduct, notice, entitlement to attorneys’ fees, or the existence of a related case.
 - (iii) They may be cited to this Court in a request to publish a disposition or order made pursuant to Circuit Rule 36-4, or in a petition for panel rehearing or rehearing en banc, in order to demonstrate the existence of a conflict among opinions, dispositions, or orders.
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CIRCUIT RULE 32-2

MOTIONS TO EXCEED THE PAGE OR TYPE-VOLUME LIMITATION

The court looks with disfavor on motions to exceed the applicable page or type-volume limitations. Such motions will be granted only upon a showing of diligence and substantial need. A motion for permission to exceed the page or type-volume limitations set forth at Fed. R. App. P. 32(a)(7) (A) or (B) must be filed on or before the brief's due date and must be accompanied by a declaration stating in detail the reasons for the motion.

Any such motions shall be accompanied by a single copy of the brief the applicant proposes to file and a Form 8 certification as required by Circuit Rule 32-1 as to the line or word count. The cost of preparing and revising the brief will not be considered by the court in ruling on the motion.

CIRCUIT ADVISORY COMMITTEE NOTE TO RULE 32-2

If the court does not grant the requested relief or grants the relief only in part, the court ordinarily will provide the party a reasonable interval after the entry of the order to file a brief as directed by the court. Any order that decides a motion will make adjustments to the due date(s) for any further briefing. (rev. 1-1-07)